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IAB # SH2387075

G - Crime laboratory report from Scientific Services Bureau analyzing DNA profiles from Suspect Leopoldo Valencia and the submitted firearm.

H - Crime laboratory report from Scientific Services Bureau documenting the crime scene.

I - Copy of Jail Pass for Suspect Leopoldo Valencia, dated December 7, 2015.

J - Compact Disc containing Dispatch 14 radio traffic and "cold line" information; Transcribed Dispatch 14 radio traffic.

MISCELLANEOUS DOCUMENTS

- Training records for Detective Arthur Perez
- Range Qualification scores for Detective Arthur Perez
- Administrative Rights Admonition for Force/Shooting Investigation for Detective Arthur Perez and Crime Scene Photos
- Administrative Rights Admonition for Force/Shooting Investigation for Detective Miguel Fuentes and Crime Scene Photos
- Foot Pursuit Evaluation form
- Unit identifiers with time stamp for Dispatch 14 radio traffic
- Felony Complaint for Suspect Leopoldo Valencia

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service Since 1850"

DATE: August 12, 2019
FILE No. 2404473
ARB No. 201-16

OFFICE CORRESPONDENCE

FROM: JULIA VALDES, SERGEANT
ADVOCACY UNIT

TO: KELLY M. POROWSKI, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: ARTHUR MARK PEREZ, DEPUTY SHERIFF, EMPLOYEE NO. [redacted]

On September 8, 2016, Deputy Perez received his Letter of Intent notifying him it was the intention of the Department to suspend him without pay from his position of Deputy Sheriff, Item No. 2708A, with this Department for a period of five (5) days.

On July 8, 2016, Deputy Perez filed a grievance on his five (5) day suspension. The grievance was denied. On October 13, 2016, Deputy Perez received his Letter of Imposition notifying him that he was suspended without pay from his position of Deputy Sheriff, Item No. 2708A, with this Department for a period of five (5) days effective October 17, 2016 through October 21, 2016.

On October 28, 2016, Deputy Perez filed an appeal with the Employee Relations Commission on his five (5) day suspension. On November 21, 2016, the Employee Relations Commission granted Deputy Perez a hearing. Arbitrator Guy Z. Prihar was appointed to hear this matter. There were two days of hearing.

On August 4, 2019, Arbitrator Guy Z. Prihar stated that the County did not have proper cause to suspend the Grievant for five (5) days pursuant to the Letter of Imposition. The Letter of Imposition shall be rescinded and removed from Grievant's personnel files. Grievant shall be made whole.

Therefore, Deputy Perez shall be reimbursed for the five (5) day suspension that he served on October 17, 2016 through October 21, 2016, as soon as practicable.

Please make any necessary changes in your records and to PRMS to reflect the attached Arbitrator's Award. If you have any questions regarding this matter, please contact me at (323) 890-5414.

JV:liz

Attachments

In the Matter of Arbitration Between

County of Los Angeles, Sheriff's Department
County,

and

Association for Los Angeles Deputy Sheriffs,
Association.

Re: Arthur Mark Perez, Grievant

County of Los Angeles
Employee Relations Commission
Case No. 201-16

Impartial Arbitrator's
Opinion and Award

Arbitrator: Guy Z. Prihar

Appearances:

For the County: Sally S. Frontman, Esq.
Law Offices of Hausman & Sosa, LLP
20750 Ventura Blvd., Ste. 105
Woodland Hills, CA 91364

For the Association: Ken Yuwiler, Esq.
Rains Lucia Stern St. Phalle & Silver, PC
16130 Ventura Blvd., Ste. 600
Encino, CA 91436

Dates/Location of arbitration: May 20 and 21, 2019
16130 Ventura Blvd., Ste. 600
Encino, CA 91436

PROCEDURAL HISTORY

In an October 13, 2016 letter ("Letter of Imposition") (Association Exhibit E)[1], the County of Los Angeles ("County") Sheriff's Department ("Department") notified Deputy Sheriff Arthur Mark Perez ("Grievant") that he was suspended for five days, effective October 17, 2016.[2] The Association for Los Angeles Deputy Sheriffs ("Association") grieved the matter on Grievant's behalf and, on October 26, 2016, requested arbitration (AX G) through the County's Employee Relations Commission, pursuant to the procedures set forth in the November 3, 2015 Memorandum of Understanding ("MOU") (JX 1) between the County and the Association (collectively, the "Parties").

The undersigned was selected as Arbitrator on September 29, 2018, and the matter was heard on May 20 and 21, 2019. The Parties appeared and were afforded the opportunity to introduce relevant evidence, examine and cross-examine witnesses under oath, and propound argument in support of their positions. The matter was submitted for Opinion and Award following receipt and exchange of the Parties' written closing briefs on July 1, 2019.

ISSUES

The Parties were unable to agree to the issues to be decided, but they stipulated to the Arbitrator's authority to frame those issues.

The County proposed the following issues to be decided:

1. Did the Grievant violate established Department policy by failing to broadcast on a Sheriff's Communication Center access channel and advise Sheriff's Communication personnel and/or his partner, deputy Miguel Fuentes, that he was engaged in a foot pursuit of an armed suspect?

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1 Joint, County, and Association Exhibits shall be referenced as "JX," "CX," and "AX," respectively.

2 On June 24, 2016, the Department initially notified Grievant of its intent to suspend him for four days. (AX C.) Pending the grievance of that four-day suspension, and for reasons not established in this record, on September 8, 2016, the Department notified Grievant of its intent to suspend him for five days. (AX D.)

2. Did the Grievant violate Department policy by failing to exercise sound officer safety skills as he entered a potential kill zone while in pursuit of an armed suspect?

3. Did the Grievant violate Department policy by placing his partner, Deputy Miguel Fuentes in a tactical disadvantage by being in possession of the only working hand-held Sheriff's radio between the two and entering a potential kill zone?

4. If any or all of the above-referenced policy violations occurred, did the Department violate Article 26 of the Memorandum of Understanding by suspending Grievant for five (5) days?

The Association proposed the following issues:

1. Did the County have proper cause to suspend Detective Perez for five days pursuant to the October 13, 2016 Letter of Imposition?

2. If not, what shall be the appropriate remedy?

As framed, the County's first three proposed issues conclude that Grievant engaged in the cited misconduct and limit the inquiry to the issue of whether such misconduct constituted a violation of policy. Absent stipulation that Grievant engaged in the conduct as set forth in each of the County's first three issues, I have rejected those proposed issues. In contrast, the Association's proposed issues properly refer to, and place the burden on the County to establish, "proper cause" as provided by Article 26 of the MOU. Because the Association's proposed issues would necessarily require analysis of the allegations in the Letter of Imposition, I have adopted them and have framed the issues to be decided as follows:

1. Did the County have proper cause to suspend Grievant for five days pursuant to the Letter of Imposition?

2. If not, what shall be the appropriate remedy?

RELEVANT LANGUAGE

MOU (JX 1)

ARTICLE 26 MANAGEMENT RIGHTS

. . . . It is also the exclusive right of the County to . . . take disciplinary action for proper cause, ...

. . .

MANUAL OF POLICY and PROCEDURES (CX 3)

3.10/150.00 TACTICAL INCIDENTS

. . .

Following any tactical incident . . . the conduct of Department personnel may be evaluated for compliance with established Department policies . . . . A primary consideration in determining sound tactics is whether the actions by personnel increase or decrease officer safety . . . .

. . .

Danger Area: Any area which lacks or has limited cover and avenues of escape and offers a significant advantage to an adversary . . . .

. . .

Kill Zone: An area in which concentrated fire is intended to neutralize an adversary by exploiting terrain and the impact of fire.

. . .

5-09/220.5 FOOT PURSUITS

. . .

Foot pursuits are inherently dangerous . . . . Deputies must initiate a radio broadcast with appropriate information within the first few seconds upon initiating a foot pursuit . . . .

. . .

STATEMENT OF RELEVANT FACTS

I. Brief summary

Grievant's suspension stems from a foot pursuit of a suspect on September 24, 2015, in which Grievant was alleged to have engaged in the

following acts (CX 2, 3, 13):

- failing to broadcast on a Sheriff's Communication Center access channel and advise [personnel] that he was engaged in a foot pursuit of [the suspect] who was armed with a firearm;
- failing to notify his partner, Deputy Miguel Fuentes, that the suspect was armed with a firearm;
- failing to exercise sound officer safety skills as he entered a potential kill zone while in pursuit of the suspect;
- placing Deputy Fuentes in a tactical disadvantage by being in possession of the only working hand-held radio between them and entering a potential kill zone

The County alleged that, by engaging in the foregoing, Grievant violated the Manual of Policy and Procedures Sections 3-01/050.10, Performance Standards; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders (as it pertains to 5-09/220.50, Foot Pursuits; and/or 3-10/150.00, Tactical Incidents).

II. The alleged conduct

The County produced no percipient witnesses to the events of the foot pursuit of September 24, 2015. Deputy Jose Diaz, assigned to the Tactics and Training Bureau, reviewed the Letter of Imposition and investigative findings in this case. For purposes of this hearing, I have accepted the County's position that Deputy Diaz was established to be an expert in tactics and training. Lieutenant Daniel Martin, who had conducted the investigation of the events, also testified. Grievant elected not to testify on his own behalf and called no witnesses. Thus, the sum of the evidence establishing the circumstances of the foot pursuit is limited to Grievant's unrebutted admissions in the form of his statements (CX 15, 17) to Department personnel during its investigation of the incident.[3] Based on those statements, the following events were established:

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3 Grievant was interviewed on October 26, 2015 and January 27, 2016. (CX 15, 17.)

Grievant and his partner, Detective Fuentes, were driving an unmarked car when they spotted a group of men standing next to a bicycle matching the description of a bicycle that was stolen during the commission a recent murder. Prior to stopping and investigating, Detective Fuentes realized that the battery power in his hand-held radio was low, so he and Grievant agreed that Grievant would be responsible for radio communication. Deputy Diaz testified that Grievant was not in violation of policy simply because Detective Fuentes' hand-held radio had a low battery.

The officers exited their car and, as they confronted the group of men, the suspect emerged from a nearby white van. Grievant observed the suspect reach into his pocket and grab the butt of a handgun before screaming incoherently and running away.

Grievant ordered the suspect to stop, yelled to Detective Fuentes that the suspect had something in his pocket, and then initiated a broadcast on his hand-held radio to the Sheriff's Communication Center ("SCC") that he was engaged in a foot pursuit of a "417 suspect."[4] Unbeknownst to Grievant, the SCC never received his radio transmission. Deputy Diaz testified that the SCC typically responds to a broadcast within a few seconds but that an officer does not have to stop a foot pursuit while waiting for the SCC to respond. Deputy Diaz was unaware of any policy that dictated when a response from the SCC was required and opined that, if a deputy attempts to broadcast and that broadcast does not reach the SCC because of another interfering transmission (i.e., the broadcast is "stepped on"), no policy violation with respect to broadcasting a foot pursuit has occurred.[5]

4 California Penal Code, Title 11, Section 417 prohibits, *inter alia*, the brandishing of a firearm unless in self defense.

5 The Department's Investigative Summary (CX 13) suggests that another police station used the same channel, possibly resulting in Grievant's broadcast being stepped on. A transcript (CX 23) of communications received by the SCC during the relevant time frame does not reflect Grievant's transmissions. Lieutenant Martin also listened to recordings of radio traffic prior to that provided in the transcript and testified that, while he heard transmissions from another unit, he did not hear transmissions from Grievant. With respect to transmissions recorded by the SCC, Lieutenant Martin testified that, "I don't know if it would even be recorded if something got stepped on."

Detective Fuentes told investigators that, though he did not see Grievant make any transmission, he heard Grievant say the words, "foot pursuit" and assumed that, since he did not need to be told there was a foot pursuit, Grievant was broadcasting. (CX 19, p.13-14.) Detective Fuentes also told investigators that he had not attempted a radio broadcast, because he did not think it was safe to use the radio at that time. (CX 13, p.19.)[6]

Grievant told investigators that he recalled communicating with Detective Fuentes and that Detective Fuentes "acknowledged back [to Grievant] . . . he's got a gun." (CX 15, p.15.)[7] Deputy Diaz testified that he believed that either calling out a "417" or yelling at a suspect to drop a gun was an appropriate and sufficient communication in terms of notifying a partner that a suspect was armed with a firearm. Lieutenant Martin testified that he had concluded during his investigation that Grievant and Detective Fuentes were communicating with each other in a timely manner.

Grievant and Detective Fuentes continued to chase the suspect, who fled into an enclosed dumpster area. In an effort to determine whether the suspect was contained, Grievant, who was ahead of Detective Fuentes, slowed his pursuit and approached the entrance to the area while attempting to maintain cover ("slice the pie") as best as possible. Grievant was within four to five feet of the entrance when he heard gun shots. Grievant ultimately backed out of the area and retreated. Both Grievant and Detective Fuentes then set up a containment area for the suspect while waiting for assistance to arrive.

Deputy Diaz testified that he believed that, though simply chasing a suspect with a firearm places that officer in a potential "kill zone," the officer still may be required to pursue the suspect. Here, Grievant's foot pursuit of the

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6 Broadcasts received by the SCC during the relevant time frame demonstrate communication from Detective Fuentes after containment of the suspect. (CX 23.)

7 Detective Fuentes stated during the Department's investigation that he had yelled at the suspect to "let go of the gun." (CX 19, p.13.) He also told investigators that he heard Grievant say something but did not "pick it up," because he, Detective Fuentes, was also yelling at the suspect. (CX 19, p. 25.)

suspect and his approach at the end point were not improper. Grievant's actions were also not inappropriate in backing out of the area. According to Deputy Diaz, though Grievant's actions in approaching the dumpster entrance were not "ideal" from a tactical perspective, they did not violate Department policy. Lieutenant Martin testified that he did not believe that Grievant had failed to use sound judgment.

III. The investigation

Lieutenant Martin, formerly Sergeant Martin at the time of the incident, was assigned to the scene and to the administrative investigation, which included interviewing both Grievant and Detective Fuentes. Detective Fuentes was not disciplined for his role in the events of September 24, 2015.

DISCUSSION

To comport with a disciplinary "proper cause" standard, the County must establish with a preponderance of evidence the following elements: (1) Grievant engaged in the conduct alleged; and (2) the discipline is reasonable under the circumstances. The reasonableness of discipline is dependent on the totality of the circumstances, including the presence of any mitigating or aggravating circumstances and whether Grievant knew or reasonably should have known that the conduct could lead to discipline and its severity.

1. Alleged conduct

Each allegation is addressed in turn:

- **Failing to broadcast on a Sheriff's Communication Center access channel and advise [personnel] that he was engaged in a foot pursuit of [the suspect] who was armed with a firearm**

The County suggests that, since no transmission from Grievant was recorded, the evidence does not establish that Grievant's transmission was "stepped on," thus calling into question whether he, in fact, initiated the

broadcast. (County Br. at 7, 9.) However, the County laid no foundation to discount that, as questioned by Lieutenant Martin, the reason that no recording of Grievant's transmission was made was *because* his transmission was, in fact, stepped on. Grievant's unrebutted admission to investigators was that he initiated a broadcast in an attempt to communicate with the SCC about the foot pursuit, and his admission was corroborated by the hearsay statements of Detective Fuentes, who heard Grievant say "foot pursuit." The relevant policy provides only that an officer must *initiate* a broadcast, so while Grievant's efforts to broadcast may have ultimately been unsuccessful, no evidence discounts that, at minimum, he initiated a broadcast in compliance with policy. Under these circumstances, the County did not meet its burden is establishing that Grievant's actions amounted to a policy violation.

- **Failing to notify his partner, Deputy Miguel Fuentes, that the suspect was armed with a firearm**

As provided through Grievant's unrebutted admissions to Department investigators, Grievant communicated with Detective Fuentes regarding the suspect's possession of a firearm. This communication was not only made indirectly by attempting to alert the SCC of a "417 suspect," but it was also made directly, in that Grievant recalled communication and acknowledgment between him and Detective Fuentes regarding the suspect's firearm. Neither County witness, Deputy Diaz or Lieutenant Martin, testified that Grievant and Detective Fuentes' communications were insufficient or untimely. Under these circumstances, the County did not meet its burden is establishing that Grievant's actions amounted to a policy violation.

- **Failing to exercise sound officer safety skills as he entered a potential kill zone while in pursuit of the suspect**

Solely for purposes of discussion, the County's position – that Grievant entered a potential "kill zone" as early as when he first began pursuit of the

suspect – is taken as true. Though Deputy Diaz testified that Grievant's actions in his final approach were not ideal, in light of the combined testimony of Deputy Diaz and Lieutenant Martin, no evidence establishes that Grievant's actions – from pursuit to finalizing with containment – amounted to a failure to use sound officer safety skills. Under these circumstances, the County did not meet its burden is establishing that Grievant's actions amounted to a policy violation.

- **Placing Deputy Fuentes in a tactical disadvantage by being in possession of the only working hand-held radio between them and entering a potential kill zone**

The evidence in this record establishes only that Detective Fuentes' radio had a low battery and that at some point he elected not to use it, not that the radio was not functioning. Thus, the County has failed to meet its burden of proof that Grievant was in possession of the only working hand-held radio and consequently that he placed Detective Fuentes in a tactical disadvantage. Under these circumstances, the County did not meet its burden is establishing that Grievant's actions amounted to a policy violation.

2. Reasonableness of discipline

The County failed to meet its burden in establishing any of the alleged charges. As such, discipline is unreasonable pursuant to a "proper cause" standard.[8]

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8 In light of my findings, I have not addressed the Association's argument that Grievant was subject to disparate treatment.

AWARD

1. The County did not have proper cause to suspend Grievant for five days pursuant to the Letter of Imposition.
2. The Letter of Imposition shall be rescinded and removed from Grievant's personnel files. Grievant shall be made whole.

Guy Z. Prihar
August 4, 2019
Los Angeles, CA

October 13, 2016

Date of Department Hire 12/27/1994

Deputy Arthur Perez, #[redacted]
[redacted]

Dear Deputy Perez:

On September 8, 2016, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number 2404473. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, Department executives determined that the recommended discipline is appropriate.

You are hereby notified that you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of five (5) days effective October 17, 2016 through October 21, 2016.

An investigation under File Number IAB 2404473, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Manual of Policy and Procedures Section(s) 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (as it pertains to 5-09/220.50, Foot Pursuits; and/or 3-10/150.00, Tactical Incidents), on or about September 24, 2015, while on duty, you failed to conform to the work standards established for your rank of a patrol trained deputy sheriff when you were faced with a tactical dilemma and engaged in

a foot pursuit with an armed suspect as evidence by, but not limited to the following;

a. failing to broadcast on a Sheriff's Communication Center access channel and advise Sheriff's Communication personnel that you were engaged in foot pursuit of Leopoldo Valencia, who was armed with a firearm; and/or,

b. failing to notify your partner, Deputy Miguel Fuentes, that Leopoldo Valencia was armed with a firearm; and/or,

c. failing to exercise sound officer safety skills as you entered a potential kill zone while in pursuit of Leopoldo Valencia; and/or,

d. placing Deputy Fuentes in a tactical disadvantage by being in possession of the only working hand-held Sheriff's radio between the two deputies, and entering a potential kill zone.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to imposing this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

You may appeal the Department's action in this matter pursuant to Rule 18.01(c) of the Civil Service Rules.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Original Signed

Matthew J. Burson, Captain
Operation Safe Street

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules {when applicable}.

MJB:JMR:tj

cc: Advocacy Unit
Scott D. Edson, Chief, Special Operations Division
Internal Affairs Bureau
Kimberly L. Unland, Captain, Personnel Administration
Operation Safe Streets/Unit Personnel File







COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM McDONNELL, SHERIFF

September 8, 2016

Deputy Arthur M. Perez, #[redacted]

Dear Deputy Perez:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of ***five (5)*** days.

An investigation under IAB File Number 2404473, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Manual of Policy and Procedures Section(s) 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (as it pertains to 5-09/220.50, Foot Pursuits; and/or 3-10/150.00, Tactical Incidents), on or about September 24, 2015, while on duty, you failed to conform to the work standards established for your rank of a patrol trained deputy sheriff when you were faced with a tactical dilemma and engaged in a foot pursuit with an armed suspect as evidence by, but not limited to the following;

   a. failing to broadcast on a Sheriff's Communication Center access channel and advise Sheriff's Communication personnel that you were engaged in foot pursuit of Leopoldo Valencia, who was armed with a firearm; and/or,

b. failing to notify your partner, Deputy Miguel Fuentes, that Leopoldo Valencia was armed with a firearm; and/or,

c. failing to exercise sound officer safety skills as you entered a potential kill zone while in pursuit of Leopoldo Valencia; and/or,

d. placing Deputy Fuentes in a tactical disadvantage by being in possession of the only working hand-held Sheriff's radio between the two deputies, and entering a potential kill zone.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

At the time of service of this letter of intent, you were provided with a copy of the material on which the discipline is based. If you are unable to access the information provided in the enclosed CD, you may contact Patty Choe, of Internal Affairs Bureau, at ([redacted]) [redacted], and arrange an appointment for assistance in this regard.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Original Signed

Matthew J. Burson, Captain
Operation Safe Streets Bureau

MJB:JMR:pc

cc: Advocacy Unit
Employee Relations Unit
Earl M. Shields, Chief, Detective Division
Internal Affairs Bureau
(File # IAB 2404473)

DISPOSITION WORKSHEET

Re:	SH2387075 / IV2404473
Subject:	Arthur Perez, [redacted]
Investigator:	Daniel Martin, Internal Affairs Bureau
Advocate:	Julia M. Valdes, Advocate

DISPOSITION OF CHARGES

The following potential charges were prepared by the Advocacy Unit. Please indicate your disposition of the potential charges, and put any additional sustained charges (with reference to the investigation) on attached sheet(s).

Potential Charge(s):

The evidence in this investigation supports the following charges:

1. That in violation of Manual of Policy and Procedures Section(s) 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (as it pert to 5-09/220.50, Foot Pursuits; and/or 3-10/150.00, Tactical Incidents), on or about September 24, 2015, while on duty, Subject Arthur Perez failed to conform to the work standards established for his rank of a patrol trained deputy sheriff when he was faced with a tactical dilemma and engaged in a foot pursuit with an armed suspect as evidence by, but not limited to the following;

    a. failing to broadcast on a Sheriff's Communication Center access channel and advise Sheriff's Communication personnel that he was engaged in foot pursuit of Leopoldo Valencia, who was armed with a firearm; and/or,

    b. failing to notify his partner, Deputy Miguel Fuentes, that Leopoldo Valencia was armed with a firearm; and/or,

    c. failing to exercise sound officer safety skills as he entered a potential kill zone while in pursuit of Leopoldo Valencia; and/or,

    d. placing Deputy Fuentes in a tactical disadvantage by being in possession of the only working hand-held Sheriff's radio between the two deputies, and entering a potential kill zone.

Evidence Reference:

____

Defenses/Conflicting Evidence:

____

Disposition:

__X__ **Charge founded as delineated**
_____ **Charge founded as modified**
_____ **Charge unresolved**
_____ **Charge unfounded**

Discipline Assessment

Review of Applicable Guidelines for discipline Section:

The Department's Guidelines for Discipline (Revised December 14, 2009) lists the following Analogous misconduct with associated disciplinary penalties:

Conduct	Standard Discipline
Obedience to Laws, Regulations and Orders Foot Pursuits Tactical Incidents	W/R to Discharge
Performance to Standards	W/R to 5 Days

Determination of Discipline:

Based upon the attached assessment of mitigating and aggravating factors, the following discipline has been determined to be appropriate. This discipline is subject to revision upon receipt of the subject's response of grievance.

_____ **Discharge**
_____ **Reduction in Rank**
_X__ **Suspension with loss of pay and benefits for 5___ days**
____ **Written Reprimand**
_____ **No discipline**

Assessment of Mitigating and Aggravating Factors:

The following describe the mitigating and aggravating factors in the determining the discipline in this investigation. Those factors include:

Intent	Truthfulness
Past Performance	Severity of Infraction
Degree of Culpability	Acceptance of Responsibility
Disciplinary History	Other Factors

Management has considered the subject's performance, which is documented in the Subject's Department personnel file, and those documents not contained in that file which are attached to the disposition worksheet.